IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO. 800 OF 1984

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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THE NEW INDIA ASSURANCE CO. LTD. - Appellant(s)
Versus
MANJULABEN W/O PRAVINKUMAR SHANKERBHAI & ORS. - Respondent(s)

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Appearance :
Shri R.C. Jani for Appellant(s).
Shri Kartikey P. Rawal for Respondent No.1.
Respondent No.2 is deleted.
None for Respondent No.3.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 25/07/2007

ORAL JUDGMENT

The Insurance Company, being aggrieved by the award

dated 31st December, 1983 passed by the learned Motor Accident Claims Tribunal (Auxiliary), Rajkot in Claim Case No.248 of 1981, is before this Court with a submission that the learned Tribunal below was unjustified in holding the Insurance Company liable despite the fact that the deceased was a passenger for hire or reward in the goods vehicle.

2. Though Shri Kartikey P. Rawal, learned Counsel for respondent No.1, contended that the approach of the learned Tribunal is absolutely justified, but, in view of the judgement of the Apex Court in the matter of ***New India Assurance Co. Ltd. vs. Vedwati & Ors.***, reported in ***AIR 2007 SC 1334***, I am unable to accept the contention raised by the learned Counsel for the respondent.

3. I must hold that in case of a passenger for hire or reward in the goods vehicle, the Insurance Company would not be liable. The award against the interest of the Insurance Company deserves to and is, accordingly, set aside.

4. Shri Rawal, however, submitted that the Insurance Company has already paid the amount to the claimants, therefore, they be asked to recover the money from the driver and/or owner of the vehicle. Ordinarily, such an order could be made, but, in the present set of facts, I am unable to make such order. The prayer made by Shri Raval

is rejected.

5. In the result, the appeal is allowed. No costs.

[R.S.Garg, J.]

*kamlesh**